A special informational bulletin on the conduct of the November 7, 2006 general election

Michigan Department of State - Terri Lynn Land, Secretary of State

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With the November 7 general election rapidly approaching, this edition of *Election News* offers a number of reminders and points of information regarding the administration of the general election. The following topics are covered:

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Planning Ahead for EAC Post-Election Data Survey

An election data survey will be mailed by the Michigan Department of State's Bureau of Elections to all city and township clerks throughout the state after the conduct of the November 7, 2006 general election. The data collected on the surveys will be used by the Bureau of satisfy the informational requests we routinely receive from the federal Election Assistance Commission (EAC) in Washington, D.C. after each federal election. The Department of State's obligation to respond to the EAC's informational requests is mandated under federal law.

It merits note that the survey that will be distributed to Michigan's city and township clerks will only ask for those data elements that must be collected on the local level. The survey distributed by the Bureau will <u>not</u> ask for needed information that is available through the QVF or other state level resources. The majority of the EAC's informational requests can generally be satisfied with information already available on the state level.

While the EAC is still in the process of determining the data it intends to collect after the November 7 general election, the need for the data items listed below can be anticipated at this

this date. Given the need for the data, all city and township clerks are strongly encouraged to begin compiling the following information on an ongoing basis to eliminate the need to reconstruct the information after the election:

- A. Number of absentee ballots distributed to all voters.
- B. Of the absentee ballots distributed to all voters, the number distributed to 1) domestic military voters 2) overseas military voters and 3) overseas civilian voters.
- C. Number of absentee ballots returned by all voters in time to be counted.
- D. Of the absentee ballots returned by all voters in time to be counted, the number returned by 1) domestic military voters 2) overseas military voters and 3) overseas civilian voters.
- E. Number of returned absentee ballots which are rejected and not counted including those that are returned late.
- F. Of the returned absentee ballots which are rejected and not counted, the number returned by 1) domestic military voters 2) overseas military voters and 3) overseas civilian voters.
- G. For every returned absentee ballot which is rejected and not counted, the reason for each rejection.
- H. Number of Federal Write-In Absentee Ballots (FWAB's) received from 1) domestic military voters 2) overseas military voters and 3) overseas civilian voters.
- I. Number of election inspectors appointed to serve in each precinct.

Appointing Election Inspectors for November 7 General Election

City and township election commissions must meet between September 28 and October 17 to appoint the election inspectors needed to administer the polls on November 7.

Not later than 2 business days following the appointment of the election inspectors, the election commission is required to notify the county chair of each major political party of the "names and political party affiliations of appointed election inspectors and the precincts to which those inspectors were appointed." The notification must be made by "certified mail, personal service, or electronic transmission capable of determining date of receipt." Additional reminders associated with the appointment of election inspectors are provided below:

- An election inspector must be a registered voter of the <u>county</u> in which he or she is appointed to serve. To accommodate jurisdictions that cross county boundaries, Michigan election law provides that an individual registered to vote in a local unit of government that falls in more than one county may be appointed to serve on any precinct board established within the local unit of government.
- Election inspector appointments must be handled by the local board of election

commissioners at least 21 days but not more than 40 days before the election (September 28 through October 17, 2006). The appointments cannot be made less than five days before the date set for holding an election inspector instructional session. A city or township that is not handling its election inspector appointments through its election commission is advised to take immediate action to bring its appointment procedures into compliance with the law.

- At least three election inspectors must be appointed to serve in each precinct; additional inspectors must be appointed if needed to properly conduct the election. The election commission must designate one of the election inspectors appointed to each board as "chairperson" of the board. The first three inspectors appointed to serve on a precinct board must be 18 years of age or older; any additional precinct inspectors appointed to the board may be 16 or 17 years of age. A precinct inspector appointee must be at least 18 years of age to serve as the chairperson of the precinct board.
- The election commission is required to appoint "at least 1 election inspector for each major political party" (The major political parties are defined in law as the Republican Party and the Democratic Party.) In addition, the election commission is required to politically balance each precinct board "as nearly as possible." The election commission may appoint election inspector applicants who have expressed a preference for a minor political party at its discretion.
- The election commission is prohibited from knowingly appointing an individual to serve as an election inspector if the person has been convicted of a felony or election crime or if any member of the person's "immediate family" is a candidate for nomination or election to any office at the election. ("Immediate family" is defined as the individual's father, mother, son, daughter, brother, sister, spouse and any relative residing in the same household with that person.)
- An election commission is further prohibited from appointing a person as an election inspector "if that person declares a political party preference for a political party but is a known active advocate of another political party. A "known active advocate" of another political party is defined to mean a person who 1) is a delegate to the convention or an officer of another party 2) is affiliated with another party through an elected or appointed government position or 3) has made documented public statements (i.e., "statements reported by the news media or written statements with a clear and unambiguous attribution to the applicant") specifically supporting by name another political party or its candidates in the same calendar year as the election for which the appointment is being made.

Michigan's Absentee Voting Process: Critical Points to Remember

To protect and enhance the integrity of Michigan's absentee voting process, all election officials are required to observe the legal requirements, practices and policies detailed below:

Eligibility: A registered voter is eligible to obtain an absent voter ballot for the upcoming election if he or she: 1) is 60 years of age or more 2) is unable to vote without assistance 3) expects to be absent from his or her city or township of residence for the entire time the polls are open 4) is in jail awaiting arraignment or trial 5) has been appointed to work as an election

inspector in a precinct outside of his or her precinct of residence or 6) is unable to attend the polls due to his or her religious beliefs.

Eligibility restriction: A person who registers to vote by mail must vote <u>in person</u> in the first election in which he or she participates. The restriction does not apply to overseas voters, voters who are handicapped or voters who are 60 years of age or older.

Application process: A voter who wishes to receive an absentee ballot must request it <u>in writing</u> from the clerk; absentee ballots may not be delivered as a result of an oral request made in person or over the phone. However, an absent voter ballot <u>application form</u> may be provided as a result of an oral request.

The written request may be on a form supplied by the clerk or other election official, in a letter or on a postcard. The written request must include a statutory reason why the voter is eligible to receive an absentee ballot and the applicant's signature.

Absentee ballot application submission timeframes: If the ballot must be issued by mail, the application for the ballot must reach the clerk no later than 2:00 p.m. on the Saturday prior to the election.

Absent voter ballots can be requested by voters <u>in person</u> anytime up to 4:00 p.m. on the day prior to the election. A voter who visits his or her clerk's office on the day prior to the election to obtain an absent voter ballot must vote the ballot in the clerk's office; the voter is not permitted to leave the clerk's office with the ballot.

It merit note that a voter who applies for an absent voter ballot for a primary may use a "dual" absent voter ballot application form to request an absent voter ballot for the following general election if he or she is eligible to receive an absent voter ballot for both elections. Consequently, city and township clerks must check the absent voter ballot applications which were received prior to the primary to determine if any of the applications include absent voter ballot requests for the general election.

The law also provides for the issuance of "emergency" absent voter ballots on the day of the election. The emergency absentee voting process is explained below.

Office hours on Saturday preceding election: The clerk or other authorized personnel appointed by the clerk must be available in the clerk's office on the Saturday preceding the election until 2:00 p.m. -- the deadline for requesting an absentee ballot which must be mailed.

Restrictions on possession of signed absent voter ballot applications: The persons who may be in lawful possession of a <u>signed</u> absent voter ballot request are limited to 1) the applicant 2) a member of the applicant's immediate family 3) a person residing in the applicant's household 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) 5) a registered elector asked to handle the application by the applicant and 6) an authorized election official.

A registered elector who returns an absentee ballot application at the request of the applicant must sign the following certificate which appears on the application form:

Application verification requirement: Upon the receipt of a completed absent voter ballot application, the signature appearing on the application must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

Issuance of absentee ballots: A request for an absentee ballot must be processed immediately. It is recommended that the ballot be issued within 24 hours of the receipt of the application. Applications must be processed in the order they are received. This will avoid criticism that certain voters are being given preferential treatment. (While absentee ballots must be issued in the same order in which they are requested, an election official is not prohibited from issuing an absentee ballot to a voter applying in person despite the fact that there may be applications on file which have not yet been honored.)

An absentee voter can receive an absent voter ballot at his or her registration address, at a hospital, nursing home or similar institution or at any address outside of his or her jurisdiction of residence.

Campaign brochures or any other type of unauthorized materials must <u>not</u> be distributed with absentee ballots.

In every case, a requested absentee ballot must be transmitted to the applicant <u>by mail</u> if there is an adequate amount of time for the voter to receive the ballot by mail, vote the ballot and return the ballot prior to 8:00 p.m. on the date of the election. To avoid any appearance of impropriety, absentee ballots should <u>not</u> be delivered by hand unless the hand delivery of the ballot is necessary to ensure the timely return of the ballot.

Absentee voters who receive assistance: If the absentee voter receives assistance from another person when voting the ballot, the individual who provided the assistance must sign the certificate shown below. The certificate appears on the outside of the ballot return envelope.

It merits emphasis that the certificate must be signed by <u>any person</u> who assists an absentee voter vote his or her ballot including the voter's spouse, a household member who lives with the voter, an election official or an individual employed as an election assistant.

TO BE COMPLETED	ONLY IF VOTER IS	
ASSISTED IN VOTING I	BY ANOTHER PERSON	
I assisted the above named absent voter who is disable accordance with his or her directions. The absent voter without being exhibited to any other person.		
Signature of Person Assisting Voter		
Street Address or R.R.	City, Twp., or Village	

Return of absentee ballots: Absentee ballots must be returned to the clerk by 8:00 p.m. on election day. On the day of the election, the clerk must make arrangements with the post office to pick up any absent voter ballots which are received by the post office after the post office has made its final mail delivery of the day to the clerk's office. (The time of the final check should be coordinated with the post office to ensure that the check is made after the post office receives its last mail delivery of the day.)

The persons who may return an absentee ballot are limited to 1) the voter 2) a member of the voter's immediate family who has been asked to return the ballot 3) a person residing in the voter's household who has been asked to return the ballot 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) and 5) an authorized election official.

Given the above restrictions, it merits emphasis that an absentee voter is <u>not</u> permitted to ask another voter who is not a member of the voter's immediate family or household to return his or her absentee ballot.

Ballot pick-up requirement: An election official is required to pick up a voter's absentee ballot if <u>all</u> of the following conditions are satisfied: 1) the election official issued the ballot to the voter 2) the voter is unable to return the ballot under any of the authorized delivery methods 3) the voter calls to request the pick up of his or her ballot before 5:00 p.m. on the Friday immediately preceding the election and 4) it is not necessary for the election official to travel outside of the jurisdiction to obtain the ballot. Under any other circumstances, an election official (or authorized assistant) may pick up a voter's absentee ballot at the election official's discretion if 1) the election official issued the ballot to the voter and 2) the voter is unable to return the ballot under any of the authorized delivery methods.

Election assistants authorized to pick up absentee ballots must carry appropriate credentials and show them when asked.

It merits note that an election official should not pick up a voter's absentee ballot unless the voter requests the pick up. In no case should an election official or a person working as an election assistant contact an absentee voter in person or by phone to offer to return the voter's ballot.

Ballot verification requirement: A voter who has obtained an absentee ballot must sign the following certificate which appears on the return envelope prior to returning the ballot to the clerk:

TO BE COMPLETED BY THE ABSENT VOTER		
I assert that I am a qualified and registered elector of the city, township, or village named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person. I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.		
Date Signature of Absent Voter		

Upon the receipt of a returned absentee ballot, the signature appearing on the above certificate must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

If the voter fails to sign the certificate, the ballot is void and cannot be removed from the envelope or counted.

Deceased absentee voter: If it comes to the attention of a local election official or a precinct board that a voter who returned an absentee ballot has died, the ballot must be rejected. In such an instance, the election official or precinct board writes "rejected as illegal" on the return envelope. Absentee ballots which are "rejected as illegal" cannot be removed from their return envelopes.

Emergency absentee ballot requests: An elector may make an "emergency" request for an absentee ballot if he or she cannot attend the polls because of 1) personal disablement or 2) a family death or illness which will require that the elector leave the community for the entire time the polls are open on election day.

"Emergency" requests for absentee ballots must be made after the deadline for making "regular"

requests for absentee ballots (2:00 p.m. on the Saturday before the election) and before 4:00 p.m. on election day. The emergency must have occurred at a time which made it impossible for the voter to apply for an absentee ballot by the statutory deadline for "regular" applications.

If an "emergency" absentee ballot is requested, the person making the application may authorize the person delivering the application to pick up and deliver the ballot. The authorization to pick up and deliver the ballot must be in writing and must be signed by the applicant. An "emergency" absentee ballot may also be delivered by hand to the applicant by a person authorized to handle this task.

Penalties: Michigan election law provides the following penalties related to Michigan's absentee voting process:

- A person who forges a signature on an absentee ballot application is guilty of a felony.
- An unauthorized person who both distributes absentee ballot applications to absent voters
 and returns those absentee ballot applications to a clerk or assistant of the clerk is guilty of a
 misdemeanor.
- A person, other than an authorized election official, who gives, lends or promises any valuable consideration to or for a person to induce that person to both distribute absentee ballot applications and receive signed absent voter ballot applications from voters for delivery to the clerk is guilty of a misdemeanor.
- A person who is present while a voter is voting an absent voter ballot who suggests how the voter should vote or attempts to influence the voter on how he or she should vote is guilty of a felony.
- A person who assists an absentee voter mark his or her ballot who suggests how the voter should vote or attempts to influence the voter on how he or she should vote is guilty of a felony.
- A person who assists an absentee voter mark his or her ballot who permits any other person to suggest how the voter should vote or permits any other person to attempt to influence the voter on how he or she should vote is guilty of a felony.
- A person in illegal possession of an absentee ballot (voted or unvoted) is guilty of a felony.
- An unauthorized person who returns, solicits to return or agrees to return an absentee ballot is guilty of a felony.
- A person who assists an absentee voter who falsifies the statement which must be signed by such assistants is guilty of a felony.
- A person who plans or organizes a meeting at which absentee ballots are to be voted is guilty of a felony.

Handling Federal Post Card Application (FPCA) Forms

FPCA forms submitted for the 2004 election cycle must be honored for the 2006 election cycle. See below for further information.

- The Federal Post Card Application (FPCA) is a postage-free absent voter ballot application produced and distributed by the federal government. The following persons are eligible to use an FPCA to request an absent voter ballot:
 - 1) Members of the Armed Forces and their spouses and dependents.
 - 2) Members of the Merchant Marine and their spouses and dependents.
 - 3) U.S. citizens living or traveling outside of the territorial limits of the United States.
- A person who is eligible to use an FPCA to obtain an absent voter ballot may register up to 8:00 p.m. on the day of the election; *the 30-day registration deadline is waived*. If an individual submitting an FPCA is not registered to vote, the FPCA can be accepted as the voter's registration application.
- An FPCA may be used by one person only; if a husband and wife or several family members
 who are eligible to use an FPCA wish to obtain absent voter ballots, each must complete a
 separate FPCA form.
- HAVA requires local election officials to provide return notification in any instance where a voter registration application or absent voter ballot application submitted by an absent uniformed services voter or an overseas voter is rejected. The notification can be issued by any convenient means (letter, fax or email).
- HAVA stipulates that a Federal Post Card Application (FPCA) used to request absent voter ballots must be honored "through the next 2 regularly scheduled general elections for Federal office...." As a consequence, an FPCA form submitted for the August 3, 2004 primary, the November 2, 2004 general election or the August 8, 2006 primary must be honored for the November 7, 2006 general election. As the new HAVA stipulation only impacts elections involving federal offices, an absent uniformed services voter or overseas voter who wishes to participate in a local election must submit additional absentee ballot requests for the local elections of interest.
- HAVA requires the Federal Voting Assistance Program office to prescribe a "standard oath" for use with any document submitted by voters under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The standard oath prescribed by the Federal Voting Assistance Program Office must be used in place of the oath prescribed under Michigan election law when sending an absent voter ballot to an absent uniformed services voter or overseas voter. (The wording of the oath was included in the HAVA compliance memo issued through the Bureau on June 16, 2004.) The oath can be placed on the absent voter ballot return envelope with a sticker if necessary. The newly prescribed oath does *not* replace the wording of the affidavit which must be submitted by Michigan citizens who are

living or traveling outside of the territorial limits of the United States ("Affidavit for Persons Living or Traveling Outside of the United States").

• When sending absent voter ballots to FPCA applicants, the procedures followed depend on the status of the elector submitting the FPCA.

Armed Forces, Merchant Marine, spouses and dependents: Upon the receipt of the FPCA, an absent voter ballot is immediately forwarded to the applicant. As noted above, if the applicant is not registered, the FPCA is accepted as the voter's registration application. An oath is not required.

If a member of the Armed Forces or Merchant Marine or a spouse or dependent of a member of the Armed Forces or Merchant Marine applies for an absent voter ballot in a letter instead of an FPCA, immediately send the requested ballot if the applicant is registered. If the applicant is not registered, immediately send the requested ballot and registration forms. If the registration forms and the ballot are returned by 8:00 p.m. on election night, the ballot can be counted.

Citizens living or traveling outside U.S.: These procedures differ from the procedures detailed above as a U.S. citizen who is living or traveling outside of the territorial limits of the United States must submit either an "Affidavit for Persons Living or Traveling Outside of the United States" or execute the FPCA under oath to obtain an absent voter ballot.

If the applicant executed the oath on the FPCA form or submitted the above referenced affidavit, an absent voter ballot is immediately sent.

If the applicant did not execute the oath on the FPCA form or submit the above referenced affidavit, the affidavit form is sent to the applicant. An absent voter ballot is immediately sent to the applicant as soon as the affidavit is returned.

The affidavit requirement is provided under Michigan election law, MCL 168.759a. A recommended affidavit form which can be photocopied as needed is provided with this newsletter. As noted above, if the applicant is not registered, the FPCA is accepted as the voter's registration application.

If a private citizen living or traveling outside of the territorial limits of the United States does not use an FPCA to apply for an absent voter ballot, an "Affidavit for Persons Living or Traveling Outside of the United States" must be submitted by the voter before an absent voter ballot can be sent. If the affidavit is not enclosed with the letter request, a blank affidavit form is sent or faxed to the person for completion. (Registration forms must also be sent if the person is not registered.) As soon as the completed affidavit is returned by the voter, the absent voter ballot is mailed. The person must then return the voted ballot and completed registration forms (if required) before 8:00 p.m. on the date of the election.

It merits note that a qualified elector who is overseas and who resided in Michigan immediately before leaving the United States may register in the city of township where his

or her residence was located – even if an established place of residence is no longer maintained in the city or township.

It merits further note that there is no limit to the length of time a person may reside or travel outside of the territorial limits of the United States and still vote by absent voter ballot. As long as the person remains qualified to vote and properly applies for ballots, the ballot requests must be honored.

Handling Federal Write-In Absentee Ballots (FWAB's)

The Federal Write-In Absentee Ballot (FWAB) is a special write-in ballot which can be used to vote for federal offices only. The form is provided and distributed by the federal government. The following persons are eligible to use an FWAB:

- 1) Members of the Armed Forces and their spouses and dependents.
- 2) Members of the Merchant Marine and their spouses and dependents.
- 3) U.S. citizens living or traveling outside of the territorial limits of the United States.

Standards for determining validity of FWAB's: An FWAB must be counted if:

- 1) the FWAB was signed by the voter;
- 2) the FWAB arrives from an overseas address or an address within the United States and was submitted by a member of the uniformed services or merchant marine on active duty who is away from his or her Michigan jurisdiction of residence or a spouse or dependent of such a voter who is away from his or her Michigan jurisdiction of residence;
- 3) the voter submitted a written request for an absentee ballot <u>on or before November 4, 2006</u>; and
- 4) the absentee ballot issued to the voter by the voter's city or township clerk does not arrive back in the clerk's office in time to be counted.
- "Uniformed services" includes the United States Army, Navy, Air Force, Marine Corps, Coast Guard; the Michigan National Guard; the commissioned corps of the Public Health Service; and the commissioned corps of the National Oceanic and Atmospheric Administration.
- It merits emphasis that an FWAB is <u>not</u> valid unless the voter submits a written request for an absentee ballot on or before <u>November 4, 2006</u>. An absent voter ballot application received by the Bureau of Elections or a county clerk's office on or before November 4, 2006 satisfies the application deadline used to judge the validity of federal write-in ballots.
- If a voter who requests an absentee ballot returns both the ballot issued by his or her local clerk and an FWAB before 8:00 p.m. on Tuesday, November 7, the ballot issued by the clerk is accepted and the FWAB is rejected. On the other hand, if both ballots are returned -- and

one of the ballots arrives before 8:00 p.m. on Tuesday, November 7, and the other ballot arrives after 8:00 p.m. on Tuesday, November 7 – the ballot that was submitted on time is accepted <u>regardless of whether it is the FWAB or the ballot issued by the clerk</u> and the ballot that arrived late is rejected.

Reminders: Several pertinent reminders regarding the use and processing of FWAB's are provided below:

- For the November 7 general election, the FWAB can be used to vote for the federal offices
 on the ballot (U.S. Senator and U.S. Representative); it <u>cannot</u> be used to vote for any other
 offices or on proposals.
- A voter using an FWAB can cast a vote for a candidate seeking a federal office at the
 election by writing in the candidate's <u>name or political party</u>. If the voter writes in the name
 of a political party, a vote is counted for the candidate seeking the office under the indicated
 party's vignette.
- A voter is <u>not</u> required to mark a cross or a checkmark on the FWAB.
- Federal law provides that any abbreviation, misspelling or other minor variation in the form of a candidate's name or the name of a political party is to be disregarded in determining the validity of the vote cast if the voter's intention can be determined.

Tips for Mailing APO/FPO Absentee Ballots

To ensure the most efficient handling of absentee ballots mailed to members of the military stationed outside of the United States, the United States Postal Service (USPS) requests that all APO/FPO absentee ballots be 1) separated from all regular mail and other domestic absentee ballots and 2) delivered directly to a USPS clerk or mail carrier. The USPS further cautions that to avoid delivery delays, APO/FPO absentee ballots should <u>not</u> be placed in USPS collection boxes.

Recall Petition "Cutoff" Dates for 2007 Elections

An amendment to Michigan election law enacted in 2005 (PA 71 of 2005) provides that a recall election must be conducted on the 'next regular election date that is not less than <u>95 days</u> after the petition is filed."

In view of the amendment, the following chart lists the last date a recall petition can be filed for the regular election dates scheduled in 2007:

Election date	Last date recall petition can be filed in order for recall question to appear on ballot	
February 27, 2007	November 24, 2006	
May 8, 2007	February 2, 2007	
August 7, 2007	May 4, 2007	
November 6, 2007	August 3, 2007	

AFFIDAVIT

For Persons Living or Traveling Outside of the United States

I hereby swear or affirm that the stateme United States; at the time I departed from Michigan at least 30 days and resided in Michigan; and I have not relinquished moveting in any other place. I was last registered in:	n the United States, I had (City or T	lived in the State of ownship)
(City or Township)	(County)	(State)
(Signature of Applicant)		
(Present Address Outside Un	ited States)	
Subscribed and sworn to before me on		
		
(Signature of Officer Accepting Affidavi		